

AGRI-BUSINES
Spring 2012

[name]

[name]@nebraska.gov

[number]

www.revenue.ne.gov

This PowerPoint handout is used for training purposes in conjunction with the oral presentation given by Departmental training staff.

It is not intended to be a stand-alone document.

It is not an information guide, nor does it carry regulatory or statutory authority.

Nebraska tax statutes, regulations, information guides, and other resources are available at <a href="https://www.revenue.ne.gov">www.revenue.ne.gov</a>.





- Receive notification of changes to topics of interest using the FREE web-based email subscription system.
- Set up a PROFILE enter your email address, optional password, and select the topics of interest.
- You can change your PROFILE at any time by adding or deleting topics, changing the frequency of email alerts, or changing your email address.
- No special software all you need is a valid email address and an Internet browser!

www.revenue.ne.gov

#### TODAY'S AGENDA

- 1. Overview of Sales and Use Tax
- 2. Agricultural Machinery and Equipment
- 3. Repair and Replacement Parts
- 4. Personal Property Tax
- 5. Contractor Issues
- 6. Purchases that Do Not Qualify
- 7. Agricultural Feed, Seeds and Plants, Medicines, Chemicals, & Water
- 8. Water & Energy Source Utility Exemption

## 1. OVERVIEW OF SALES AND USE TAX

#### 1. OVERVIEW OF SALES AND USE TAX

- What is a sales transaction?
  - Sales tax is calculated on the gross receipts.
  - Delivery location determines the rate of local tax.
  - Retailers must collect and report sales tax or document why they didn't.
- What is use tax?

#### What is a Sales Transaction?

#### A SALE is

- the transfer of title or possession,
- of an item or taxable service,
- for consideration.

#### Sales Transaction (continued)

#### **SALES TAX** is

- a transactional tax,
- based on the transaction,
- rather than the item sold.

#### THE BOTTOM LINE FOR SALES TAX

Retailers must collect sales tax
- OR document why they did not.

#### What is Use Tax?

- Use tax is due when Nebraska sales tax has not been paid on a taxable item or service purchased for use in Nebraska.
- Sales and use tax are <u>not</u> BOTH due on the same transaction.
- The big difference is who remits the tax -
  - Sales tax is collected and remitted by the seller.
  - Use tax is paid directly to the Department by the purchaser/consumer.

#### Use Tax (continued)

## Use tax and sales tax have these things in common -

- They are imposed on the same transactions.
- They have the same exemptions.
- They are calculated at the same rate
  - O Where delivery occursOR
  - Where first usage in Nebraska takes place.

#### Use Tax (continued)

- Often due when purchases are made from an out-of-state seller
  - o Internet, catalog, mail order
  - Magazines and journals by subscription
- Due when the business withdraws tax-free inventory for business or personal use (including donations)
  - Auto mechanic
  - Hair salon

# 2. AGRICULTURAL MACHINERY AND EQUIPMENT

## 2. AGRICULTURAL (AG) MACHINERY & EQUIPMENT

Purchases of ag equipment are sales and use tax exempt when **ALL THREE** of these criteria are met (refer to Reg-1-094):

- 2A. The item is used directly in commercial agriculture;
- 2B. The item meets the definition of ag equipment; and
- 2C. The purchaser properly completes a Form 13, Section B.

#### 2A. Commercial Agriculture

#### Commercial agriculture is:

 Producing food products or other useful and valuable crops;

- OR -

Raising or caring for animals.

The crops or animals can either be sold or used by the farmer/rancher to produce other products for sale.

#### 2A. Commercial Agriculture (continued)

Commercial agriculture also includes commercial production in:

- Feedlots;
- Greenhouses;
- Nurseries;
- Sod farms; and
- Tree farms.

#### 2A. Commercial Agriculture (continued)

### Commercial agriculture **DOES NOT** include:

- Animals in sale barns;
- Animals in stockyards;
- Storage of products in commercial elevators; or
- Storage of products off the farm.

#### 2B. Ag Equipment

#### Ag equipment:

- Must be depreciable tangible personal property, EVEN IF the owner chooses not to depreciate it for income tax purposes;
- Has a determinable life of more than 1 year; and
- Is used in commercial agriculture for the production of income.

#### 2B. Ag Equipment (continued)

- LEASES of qualified ag equipment are exempt from sales and use taxes when used directly in commercial agriculture.
- The LESSEE must give a Form 13,
   Section B to the lessor.

#### 2B. Ag Equipment (continued)

#### Ag equipment DOES NOT include:

- Real estate;
- Licensable motor vehicles;
- Equipment used in processing at a commercial facility;
- Well drilling equipment; or
- Office equipment.

#### 2B. Ag Equipment (continued)

Qualified ag equipment is exempt from sales and use taxes when purchased at an auction...

...provided the purchaser gives the auctioneer a properly completed Form 13, Section B, Category 2.

#### 2C. Form 13, Section B

Exempt Sale Certificate  Tax Exemption RESET FORM 13							
reverse side/see note below							
Name							
Street or Other Mailing Address							
City State Zip Co	ode						
Check Type of Certificate  Single Purchase  Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.							
npt Purchase (Complete Section B)	C)						
SECTION B—Nebraska Exempt Sale Certificate							
The basis for this exemption is exemption category (Insert appropriate category as described on reverse of this form.)							
If exemption category 2 or 5 is claimed, enter the following information:							
Description of Item(s) Purchased Combine Intended Use of Item(s) Purchased							
commercial agriculture							
If exemption categories 3 or 4 are claimed, enter the Nebraska Exemption Certificate number. 05-							
If exemption category 6 is claimed, seller must enter the following information and sign this form below:							
Description of Item(s) Sold Date of Seller's Original Purchase Was Tax Paid when Purchased by Seller? Was Item Depreciable?							
☐ YES ☐ NO ☐ YES ☐	NO						
	RESET FORM  NAME AND MAILING ADDRESS OF SELLER  Name  Street or Other Mailing Address  City State Zip Co  ked, this certificate is valid until revoked in writing by the purchaser.  purchaser is exempt from the Nebraska sales tax for the following rease and Purchase (Complete Section B) Contractor (Complete Section attion:  Intended Use of Item(s) Purchased  commercial agriculture  mption Certificate number. 05-  information and sign this form below:  inal Purchase Was Tax Paid when Purchased by Seller? Was Item Depreciab						

3.
REPAIR &
REPLACEMENT PARTS
FOR AG EQUIPMENT

## 3. REPAIR & REPLACEMENT PARTS FOR AG EQUIPMENT

- NOT exempt from sales and use taxes.
- Sellers cannot accept a Form 13 to exempt these sales.
- Repair labor is tax exempt
   PROVIDED it is separately stated
   on the customer's invoice.

#### 3. Repair & Replacement Parts (continued)

- HOWEVER, the purchaser may apply for a refund of the tax if:
  - The repair parts are depreciable; and
  - The property repaired is qualified ag equipment.
- To obtain a refund, file a
   Form 7AG-1 within 3 years of the date of purchase.

#### Form 7AG-1

rebreake department of revenue  Federal Employer I.D. or Social Security Number  NAME AND MAILING ADDRESS OF PURCHASER/LESSEE  Name				ninery and Equipme ead instructions on r pe or print clearly NOT WRITE INTHIS		7AG-1	
City State		Zip Code	If leased, w	fill this property be leas	ed or rented for less than one	vear?	
	YES NO					,	
Q		ULTURAL	MACHINER	RY AND EQUIPMEN	Т		
Description of Property (List Each Item Separately)	Date Purchased/ Leased	Net Purchase/ Lease Price		Local Jurisdiction Imposing Tax	Local Sales and Use Tax Paid	Nebraska Sales and Use Tax Paid	
	Mo. Day Yr.	\$			\$	\$	
1							
2							
3							
**						_	
5							
6 Total local sales and use tax paid							
v Total local sales and use tax paid						\$	
7 Total Nebraska sales and use tax paid							
8 Total refund claimed for Nebraska and local sales and use tax paid (total of lines 6 and 7). No refund will							
be made if the total amount claimed is less than \$2.00							
I also declare that payment of this claim has not been previously made by the stale, nor have I claimed or received a refund from the retailer.							
sign							
hava					( )		
Telephone Number Date					Date		

#### Form 7AG-1, continued

ACTION TAKEN	BYTH	HE NEBRASKA DEPAR	TMENT OF REVE	NUE	i.			
APPROVED		AMOUNTS APPROVED						
APPROVED AS REVISED, SEE COMMENTS OR LETTER DATED		Purchase/Lease Price	Code		Local Sales and Use Tax Paid		Nebraska Sales and Use Tax Paid	
DISAPPROVED, SEE COMMENTS OR LETTER DATED	1	\$			\$		\$	
DIONEFROYED, SEE COMMENTS ON LETTER DRIED	2	i				 		
COMMENTS:	3					<u> </u>		
	4							 
	5					 		
				6	\$			
						7	\$	
			_			8	\$	
Authorized Signature		Date						
Mail this claim and supporting documentation to: NE					•	ICOL	N, NE 68509	8903
IF PROPER DOCUMENTATI	ONISI	NOT INCLUDED, YOUR	CLAIM CANNOT	BE	PROCESSED.			
Visit our Web site www.revenue.ne.	gov or	r call 1-800-742-7474	(toll free in NE	and	d IA) or 1-402-	471-5	729.	

TAXPAYER — Retain canary copy for your income tax records

NEBRASKA DEPARTMENT OF REVENUE - White Copy

6-343-1993 Rev. 9-2005 Supersedes 6-343-1993 Rev. 2-2005 4.

#### PERSONAL PROPERTY TAX

#### 4. PERSONAL PROPERTY TAX

- All depreciable ag equipment must be reported for personal property tax purposes, EVEN IF sales tax is paid on the item.
- Property tax is not related to sales tax.

Refer to

Sales and Use Tax <u>Regulation 1-094.05</u> – Agricultural Machinery and Equipment Refund, and <u>Personal Property on the Property Assessment website</u> for additional information.

#### 4. Personal Property Tax (continued)

- All depreciable tangible personal property owned as of January 1 at 12:01 a.m. each year must be reported.
- A <u>Nebraska Personal Property Return</u> is filed with the county assessor.
- The return must be filed each year on or before May 1.

# 5. CONTRACTOR ISSUES

#### 5. CONTRACTOR ISSUES

When work on ag equipment involves charges for contractor labor:

- Contractor labor is sales tax exempt;
   and
- The contractor option chosen determines taxability of purchases of ag equipment or any repair parts.

#### **Option 1 Contractor**

#### > Transactions with the Supplier

- The Option 1 contractor can purchase building materials and fixtures for resale.
- They must give their Nebraska supplier a properly completed <u>Form 13</u>, Section C, Block 1.

#### > Transactions with the Farmer/Rancher

- The Option 1 contractor must collect sales tax on separately stated charges for building materials and fixtures UNLESS...
- A properly completed Form 13, Section B, Category 2, is obtained for qualified agricultural machinery and equipment (for example, a stirrator in a grain bin).

#### **Option 2 Contractor**

- > Transactions with the Supplier
  - The Option 2 contractor pays sales or use tax on its purchase of building materials and fixtures.
- > Transactions with the Farmer/Rancher
  - The Option 2 contractor will NOT collect sales tax on any portion of the invoice and CANNOT accept a Form 13.

#### **Option 3 Contractor**

#### > Transactions with the Supplier

- The Option 3 contractor buys building materials and fixtures tax exempt.
- They must give their Nebraska supplier a properly completed Form 13, Section C, Block 1.

#### > Transactions with the Farmer/Rancher

- The Option 3 contractor must remit use tax at the rate in effect at the time and place of withdrawal of building materials and fixtures from inventory.
- They will NOT collect sales tax on any portion of the invoice and CANNOT accept a Form 13.

#### 5. Contractor Issues (continued)

Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption REVENUE  Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption RESET FORM  13						
NAME AND MAILING ADDRESS OF PURCHASER	NAME AND MAILING ADDRESS OF SELLER					
Name	Name					
Street or Other Mailing Address	Street or Other Mailing Address					
City State Zip Code	City State Zip Code					
Check Type of Certificate						
Single Purchase Blanket If blanket is checked,	, this certificate is valid until revoked in writing by the purchaser.					
I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:						
Check One Purchase for Resale (Complete Section A) Exempt Purchase (Complete Section B) Contractor (Complete Section C)						
SECTION C—For Contractors Only						
1. Purchases of Building Materials or Fixtures:						
As an Option 1 or Option 3 contractor, I hereby certify that purchases of building materials and fixtures from the above seller are exempt from Nebraska sales tax. My Nebraska Sales or Consumer's Use Tax Permit Number is:  01-						
2. Purchases Made Under Purchasing Agent Appointment on behalf of:  (exempt entity)						
Pursuant to an attached Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, I hereby certify that purchases of building materials, and fixtures are exempt from Nebraska sales tax.						

For more detailed information, refer to the <a href="Form 13">Form 13 instructions</a> and <a href="Reg-1-017">Reg-1-017</a>, Contractors.

## 6. PURCHASES THAT DO NOT QUALIFY

#### 6. Purchases that Do Not Qualify

## Buildings and most structures DO NOT QUALIFY for the ag equipment exemption.

- Concrete feed bunks do not qualify if they are permanently attached.
- Barns and outbuildings do not qualify.
- Grain bins do not qualify.
- However, the stirrator in the grain bin DOES QUALIFY for the exemption.

#### **7**.

7A. AG FEED7B. SEEDS AND PLANTS7C. MEDICINES7D. CHEMICALS &7E. WATER

[FOR QUALIFYING ANIMALS, NONQUALIFYING ANIMALS, & CROPS]

#### **QUALIFYING ANIMALS**

Feed, seeds and plants, medicines, chemicals, and water for animal life that produce food and clothing (qualifying animals) can be purchased sales tax exempt.

- Bees
- Cattle
- Chickens
- Game birds

- Sheep
- Swine
- Turkeys

#### **NONQUALIFYING ANIMALS**

Feed, seeds & plants, medicines, chemicals, and water for animals that do not produce food (nonqualifying animals) are subject to tax.

Examples (include, but are not limited to) -

- Domesticated elk and deer
- Horses, donkeys, mules, and work animals
- Ostriches and emus
- Pets (birds, cats, dogs, etc.)

This includes any non-food producing breeding stock.

#### 7A. AG FEED

Purchases of feed used in the caring for qualifying animals are sales tax exempt.

#### Examples -

- Hay
- Grit
- Minerals and vitamins
- Salt blocks
- Silage

#### **7B. AG SEEDS & PLANTS**

Purchases of **seeds and plants** for use in commercial agriculture are sales tax exempt.

Seeds and plants are sales tax exempt when used in commercial agriculture by -

- Greenhouses
- Nurseries
- Tree farms

#### 7B. Ag Seeds & Plants (continued)

To buy seeds and plants sales tax exempt for use in commercial agriculture:

Complete <u>Form 13</u>, Section B,
 Category 2, and give it to your seller.

#### 7B. Ag Seeds & Plants (continued)

Seeds and plants **CANNOT** be purchased sales tax exempt when used for the following planting purposes -

- Residential or commercial lawns
- Private ornamental gardens
- Private golf courses
- Seed for land that is removed from production

#### 7C. VETERINARY MEDICINES

Purchases of veterinary medicines are sales tax exempt when used for:

- prevention or treatment of disease of qualifying animals; and
- treatment of the injuries of qualifying animals.

Examples (include, but are not limited to) -

- Drugs
- Antibiotics
- Antitoxins

#### 7D. AG CHEMICALS FOR ANIMALS

When ag chemicals are used for these commercial ag purposes, they are sales tax exempt:

- Controlling pests of qualifying animals;
  - Pesticides
  - Insecticides

- OR -

- Affecting a qualifying animal's growth.
  - Growth-regulating chemicals and hormones

#### 7D. AG CHEMICALS FOR CROPS

Ag chemicals applied to land or crops in commercial agriculture may be purchased sales tax exempt.

Exempt examples include -

Fertilizers

Herbicides

Fungicides

Insecticides

## 7. WHEN TO USE FORM 13 FOR THE AG EXEMPTION

A Form 13 is required when the product can be used in the treatment and care of **BOTH**:

- Qualifying; and
- Nonqualifying animals.

A Form 13 is **NOT** required when the product is labeled by the manufacturer as solely to be used for treatment or care of qualifying animals.

# 8. WATER & ENERGY SOURCE UTILITY EXEMPTION

#### 8. WATER USED FOR AG PURPOSES

Water is tax exempt when more than 90% of the water billed through the meter is used for one or more of the following tax exempt purposes:

- Irrigation of agricultural lands; or
- Care for qualifying animals.

A <u>Form 13</u> must be issued to the utility when claiming this exemption, unless the utility assigns a formal usage classification.

#### 8. ENERGY SOURCE UTILITY EXEMPTION

A qualified energy source is sales tax exempt when more than 50% of the energy is used for:

- Commercial feed grinding;
- Commercial grain drying;
- Farming; or
- Irrigation.

To purchase energy sources sales tax exempt, give a Form 13E to the seller.

Refer to Sales and Use Tax Regulation <u>1-089</u> – Energy Source Utility Exemption, for more information.

#### 8. Energy Source Utility Exemption (continued)

Example of Qualified Use -

The electricity billed through a single meter at a hog confinement building qualifies (more than 50% rule).

Example of Nonqualified Use -

The energy used in the farmer/rancher's repair shop **DOES NOT QUALIFY**.

#### Form 13E

Nebraska Department of	Nebraska Energy Source Exempt Sale	C

**FORM** 

REVENUE	Nepraska Ener	gy Source	Exempt S	ale Certificate	13E
NAME	AND MAILING ADDRESS OF PURCE	HASER	NAME AND MAILING ADDRESS OF SELLER		
Name			Name		
Street or Other Mailing	Address		Street or Other Mailing Address		
City	State	Zip Code	City	State	Zip Code
Check Type of Certifica	ate Single Purchase Blanket	If Blanket is checked	l, this certificate is valid unt	il revoked in writing by the purchaser	
Purchaser's Account N	lumber		Was an energy audit (analysis) completed prior to issuing this certificate to the seller?   NO  NO		
Describe your busines	s operations:		•		
per dete	r purchase of electricity or compresent of the energy charge through nermined to be used or directly considerable Manufacturing and Processing  Irrigation	neter number(s) sumed in: (check a Farmi Refini	ppropriate box) ng Ger	leration of Electricity	nas been properly
	r purchase of coal, fuel oil, diesel f es and use tax because more than 50				
	Manufacturing and Processing	☐ Farmin	ng 🗌 Gen	eration of Electricity	
	Irrigation	☐ Refini	ng		
sales : penalt said p	Any purchaser, or the agent thereof, or other and use tax under the Nebraska Revenue Ac ty of \$100.00 or ten times the tax, whichever a enalty shall apply to each purchase made d rized to sign this certificate, and to the best o	ct, as amended, shall in amount is larger, for eac uring the period the bla	addition to any tax, interest h instance of presentation a nket certificate is in effect.	or penalty otherwise imposed, be su ind misuse. With regard to a blanket o Under the penalties of law, I declare	bject to a ertificate,
. •	zed Signature of Purchaser		Title		Date Issued

#### SUMMARY OF COMMERCIAL AG PURCHASES

Recognize what is taxable and know how to document what is tax exempt.

- Ag equipment exemption
- Other equipment
- Building and structures
- Manufacturer-labeled ag seed
- Other seed

Form 13, Section B

(Taxable)

(Taxable)

Exempt, no form required

(Taxable)

### Summary of Commercial Ag Purchases (continued)

Recognize what is taxable and know how to document what is tax exempt.

- Dual use chemicals
- Manufacturer-labeled ag chemicals
- Other chemicals
- Ag medicines & feed
- Non-ag medicines & feed
- Energy source exemption
- Water exemption

Form 13, Section B

Exempt, no form required

(Taxable)

Form 13, Section B (Taxable)

<u>Form 13E</u>

Form 13, Section B



Let us know what you think. Please turn in your evaluation!

#### **THANK YOU!**

[name]

[name]@nebraska.gov

[number]

www.revenue.ne.gov